

REMARKS/ARGUMENTS

Applicant has received and carefully reviewed the Final Office Action mailed May 24, 2010. This paper is being filed along with a Request for Continued Examination. Currently, claims 20, 22, 24-26, 34-37, and 39-44 are pending and have been rejected. Applicant respectfully traverses all adverse assertions and rejections presented in the Final Office Action. Claims 20, 34, and 43 have been amended to clarify certain claim limitations, and claim 39-42 have been canceled. The amendments are supported, for example, by paragraphs [0013], [0031-0033], [0039-0040], and Figure 6 of the published application (U.S. 2004/0006369). No new matter has been added. Favorable consideration of the above amendments and the following remarks is respectfully requested.

Claim Rejections – 35 USC § 102

Claims 20, 22, 24-26, 34-36, and 39-44 were rejected under 35 U.S.C. §102(e) as anticipated by Ravenscroft et al. (U.S. Patent No. 6,007,558). With this amendment, claims 39-42 have been canceled, rendering their rejection moot. After careful review, Applicant must respectfully traverse the rejection of claims 20, 22, 24-26, 34-36, and 43-44.

Applicant notes that the Examiner has acknowledged that Ravenscroft et al. do not disclose that the weakened region fails or that there are applied forces that cause the weakened region to fail. Instead, the Examiner has asserted that the weakened regions of Ravenscroft et al. are capable of breaking or failing and therefore read on the claims. Applicant respectfully disagrees, and reiterates the comments submitted on August 7, 2009 and February 22, 2010. However, in an effort to advance prosecution, and without conceding the correctness of the rejection, Applicant has amended the claims to clarify certain limitations. It is believed that the amended claims sufficiently distinguish over Ravenscroft et al. to render the claims allowable.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)...“The identical invention must be shown in as complete detail as is contained in

the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). (MPEP 2131).

Independent claims 20 and 34 require, in part, an anchoring member configured to securely attach to a wall of a blood vessel, wherein a weakened or a reduced cross-sectional area region is configured to fail upon application of a force thereto, wherein the force is lower than that required to detach the anchoring member from the wall of the blood vessel, such that after the region fails, the anchoring member remains attached to the wall of the blood vessel. Ravenscroft et al. do not appear to disclose such a configuration, nor does the device of Ravenscroft et al. appear to be capable of performing as claimed. Instead, Ravenscroft et al. appear to disclose a device having anchoring members that will deflect and pull free of the vessel wall. Nowhere do Ravenscroft et al. appear to consider a region will fail upon application of a force such that the anchoring members will remain attached to the vessel wall after they detach from the struts.

Independent claim 43 requires, in part, an anchoring member configured to attach to a wall of the blood vessel, and means for releasing the anchoring member from the medical device when subject to a force within the blood vessel, wherein the anchoring member releases from the medical device and remains attached to the wall of the blood vessel. Ravenscroft et al. do not appear to disclose such a configuration, nor does the device of Ravenscroft et al. appear to be capable of performing as claimed.

Accordingly, Ravenscroft et al. do not appear to disclose each and every element of independent claims 20, 34, and 43 in as complete detail as is contained in the claims; therefore, Ravenscroft et al. cannot anticipate the claims. Since claims 22, 24-26, 35-36, and 44 depend therefrom and add additional elements thereto, Applicant submits that these claims are also not anticipated by Ravenscroft et al. Withdrawal of the rejection is respectfully requested.

Claim Rejections – 35 USC § 103

Claim 37 was rejected under 35 U.S.C. §103(a) as being unpatentable over Ravenscroft et al. in view of Ambrisco et al. (U.S. Patent No. 6,007,557). After careful review, Applicant must respectfully traverse the rejection.

"All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). (MPEP 2143.03).

Ambrisco et al. do not appear to overcome the deficiencies of Ravenscroft et al. and as applied to claim 34, discussed above, from which claim 37 depends. Accordingly, claim 37 appears to be nonobvious and Applicant respectfully requests that the rejection be withdrawn.

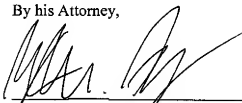
Conclusion

In view of the foregoing, all pending claims are believed to be in condition for allowance. Further examination, reconsideration, and withdrawal of the rejections are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

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By his Attorney,



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